

**LOCAL RULES OF PRACTICE AND PROCEDURE
OF THE
DOMESTIC RELATIONS DIVISION
OF THE MAHONING COUNTY COURT OF COMMON PLEAS
EFFECTIVE FEBRUARY 17, 2009**

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**RULES OF THE COURT OF COMMON PLEAS
DOMESTIC RELATIONS DIVISION
MAHONING COUNTY, OHIO**

GENERAL RULES

RULE 1

ADOPTION, SCOPE AND CONSTRUCTION OF RULES

1.01 Adoption, Scope and Construction of Rules

(A) **Adoption:** The Domestic Relations Court of Mahoning County, Ohio hereby adopts the following Rules for the Court's management of proceedings pursuant to Article IV, Section 5(B) of the Ohio Constitution and Rule 9 of the Ohio Supreme Court Rules of Superintendence for Courts of Common Pleas.

(B) **Scope:** These Rules are intended to supplement and complement the Ohio Rules of Civil Procedure and the Rules of Superintendence of the Supreme Court of Ohio.

(C) **Construction:** These Rules shall be applied, construed and enforced so as to avoid inconsistency with other rules of court and statutes governing proceedings of this Court. In their application, they shall be construed so as to provide fairness and to secure just, expeditious and inexpensive determination of all proceedings. They shall apply to proceedings pending at the time they take effect.

(D) **Citation:** As used in these Rules, "Civ. R." is a reference to the Ohio Rules of Civil Procedure and "Sup. R. ____." is a reference to the Rules of Superintendence for the Supreme Court of Ohio. These Rules shall be cited as "Local Rules" or "Loc.R. ____".

(E) **Court Forms and Website:** The Court shall from time to time develop court forms for the efficient and equitable application of changes in Ohio law and these Local Rules. All such forms as well as these local rules shall be posted on the Court's Website which may be found at www.mahoningdrcourt.org. It shall be the duty of parties and counsel to regularly monitor the website for changes.

(F) **Effective:** These Rules as originally adopted on March 1, 1998 shall be effective February 1, 2009 and supersede all previous rules promulgated by this Court.

RULE 2

COURT COSTS

2.01 **Costs/Deposits:** The Clerk of Court shall not accept any action or proceeding for filing without a deposit as security for costs in the amount set forth in the Schedule of Filing Fees/Deposits as set forth on the Court's Website. The Domestic Violence filings and Mahoning County Child Support Enforcement Agency filings are exempted from this requirement.

2.02 **Indigence:** In the case of indigence, the court cost requirement is met by filing a poverty affidavit, as set forth on the Court's Website, stating that the party is without funds or assets to pay the deposit and a certification by the attorney, if any, that no or nominal attorney fees have been paid. The party must also submit the Court's Affidavit of Income, Expenses and Financial Disclosure found on the Court Forms Section on the Court's Website. The filing of a poverty affidavit does not relieve a party from liability for court costs. If, during the course of a proceeding, the Court learns that either party, is, or has become, able to pay the applicable costs, the Court may order either party to pay the deposit within a reasonable time.

2.03 **Responsibility for Costs:** All judgment entries shall contain a provision for payment of costs as ordered by the Court. In the absence of court order, after application of all deposits, the balance of costs shall be divided equally between the parties.

2.04 **Special Assessments:** Pursuant to R.C. 2303.201, the Court has determined that additional funds are necessary to acquire and pay for special projects of the Court, including, but not limited to, the acquisition of additional facilities or the rehabilitation of existing facilities, the acquisition of equipment, the hiring and training of staff, community service programs, mediation or dispute resolution services, the employment of Magistrates, the training and education of Judges, and Magistrates, and other related services. Accordingly, the Court will from time to time, authorize and direct the Clerk of Court to charge additional fees on the filing of each Complaint for Divorce, Legal Separation, Counterclaim, Petition for Dissolution of Marriage and other post decree/divorce Motions.

RULE 3

FILING AND REMOVAL OF PAPERS FROM CUSTODY OF THE CLERK

3.01 **Filing of Papers:** The Clerk of Court shall file and preserve all papers delivered to the Clerk for that purpose. The Clerk shall not accept or journalize on its docket any Entry, Decision or Order until it is signed by the Judge or Magistrate.

3.02 **Removal:** No person, except a Judge, Magistrate, Court Clerk, or their employees, shall remove any documents or case files from the Clerk of Court. Upon request, the Clerk shall allow any person to examine, but not remove, any original document or case file that is maintained by its office. Examination shall be allowed during the regular business hours of the Clerk of Court.

RULE 4

ASSIGNMENT OF DOMESTIC RELATIONS CASES

4.01 **Assignment Commissioner(s):** The Court shall designate Assignment Commissioner(s) for divorce, legal separation, annulment, dissolution of marriage and all other cases filed in this Court. Prior to filing a Petition for Dissolution of Marriage, the parties or attorney shall secure a hearing date from the Assignment Commissioner. The Assignment Commissioner shall assign for final hearing, all uncontested and contested divorces, legal separations, annulments, all other cases filed, and all other pre- and post-divorce motions.

4.02 **Uncontested Status:** A divorce or legal separation case shall be deemed uncontested unless an Answer is filed within twenty-eight (28) days after service of the Summons and Complaint upon Defendant. If the service of notice has been made by publication, Defendant shall file an Answer within twenty-eight (28) days after the completion of service of publication.

4.03 **Divorce Hearing Date:** Pursuant to Civ. R. 75(K), no action for divorce, legal separation, or annulment may be heard and decided until the expiration of forty-two (42) days after the service of process or twenty-eight (28) days after the service of a counterclaim, which under this rule may be designated a cross-complaint, unless the Plaintiff files a written waiver of the twenty-eight (28) day period.

4.04 **Continuances of Final Hearing:** Once a case is assigned for final hearing or trial, it may be continued only by leave of Court for good cause shown.

RULE 5

POWERS OF THE MAGISTRATES

5.01 **Authority:** All Magistrates shall be awarded all of the powers set forth in Civ. R. 53, as amended July 1, 2006. The Magistrates are further awarded all other powers as set forth in the Journal Entries of this Court and the statutes of this state.

RULE 6

EX-PARTE COMMUNICATIONS

6.01 **Ex-Parte Communications:** No attorney or party shall discuss the merits, either orally or in writing, of any litigation with the Judge or Magistrate presiding over the matter without the presence of opposing counsel or the party, if not represented by counsel.

RULE 7

OUT OF STATE COUNSEL

7.01 **Out of State Counsel:** Attorneys admitted to practice law in other states, but not in Ohio, may request permission from the Court to appear pro hac vice. The decision of whether to permit representation by out-of-state counsel is a matter within the discretion of the Court. In order to be admitted pro hac vice, said attorney must have as co-counsel an attorney admitted to the bar of the State of Ohio who shall be the "attorney of record" who is officially responsible for the case.

PLEADINGS, MOTIONS AND ORDERS

RULE 8

GENERAL RULES OF PLEADING

8.01 **Form:** Unless otherwise provided herein, all pleadings, motions, and other filings shall comply in form and content with the Ohio Rules of Civil Procedure, the Rules of Superintendence of the Supreme Court of Ohio and the Local Rules of this Court as set forth below:

(A) **Caption:** All Complaints, Petitions, Answers, Counterclaims, Motions, Orders and Decrees shall state the name, address, and employer, of both parties. To protect privacy, each party's social security number and date of birth shall only be set forth on the "Family Information Sheet" that is located on the Court's Website.

(B) **Subsequent Petition Captions:** In cases commenced by petition, the subsequent captions shall remain the caption of the original petition. Parties shall be designated by their names or as "Mother" and "Father" in the body of subsequent pleadings in cases involving children.

(C) **Paper Size:** All Pleadings, Motions and Orders shall be typewritten or printed on 8½" x 11" paper.

(D) **Attorney Identification:** All Pleadings, Motions and Orders shall include the name of the attorney, the firm name, if any, office address, office telephone number, fax number, if any, and the attorney's Ohio Supreme Court Number.

(E) **Content of Motions:** All motions shall state with particularity the grounds therefore, the relief or order sought and shall identify any prior Order(s) at issue.

(F) **Separate Documents:** All Separation Agreements and Shared Parenting Plans filed with the Court must be submitted as a separate document styled as a "Separation Agreement" or "Shared Parenting Plan" and not included in the body of the pleadings.

8.02 **Initial Filings:** All Complaints, Answers and Counterclaims shall be accompanied by the following court forms which shall be filed with the Clerk of Court and served upon the opposing party or parties: the most recent versions of the court forms are available on the Court's Website which may be found at www.mahoningdrcourt.org.

(A) **Mutual Restraining Order**

(B) **Mandatory Discovery Order**

(C) **Parenting Declaration Affidavit.** The Declaration only needs to be filed if there are minor child(ren) of the parties or if parenting of child(ren) is at issue.

(D) **Request for Affidavit Order.** The request only needs to be filed if temporary orders are being sought. No documentation of income shall be attached to the request.

(E) **Affidavit of Income, Expenses and Financial Disclosure.** The affidavit must be separately filed with the Clerk of Court in all cases but shall be considered as an exhibit by the Court and retained in the Court Exhibit file. All documentation of income shall be attached to this affidavit.

(F) **Private Health Insurance Questionnaire.** The form must be separately filed with the Clerk of Court in all cases with minor children but shall be considered as an exhibit by the court and retained in the Court Exhibit file as is set forth below.

(G) **Family Information Sheet.** The information sheet must be separately filed with the Clerk of Court in all cases but shall be considered as an exhibit by the Court and retained in the Court Exhibit file as is set forth below.

(H) **IV-D Application.** The application shall be fully completed, signed by the party and separately filed with the Clerk of Court only in cases where child or spousal support is being sought but shall be considered as an exhibit by the Court and retained in the Court Exhibit file as is set forth below.

(I) **Poverty Affidavit and Financial Disclosure.** The affidavit and disclosure shall first be submitted to the Court for approval prior to filing with the Clerk of Court.

8.03 **Dissolutions**

When a Dissolution is filed, the parties shall complete and provide the following:

(A) **Family Information Sheet** (provided on the Court's Website): The information sheet must be separately filed with the Clerk of Court in all cases but shall be considered as an exhibit by the Court and retained in the Court Exhibit file as is set forth below.

(B) **Petition for Dissolution.**

(C) **Separation Agreement.**

(D) **Waiver of Service.**

(E) **Waiver of Counsel** (when one attorney).

(F) **Parenting Declaration Affidavit** (both parties) (provided on the Court's Website): The Declaration only needs to be filed if there are minor child(ren) of the parties or if parenting of child(ren) is at issue.

(G) **Affidavit of Income, Expenses and Financial Disclosure** (both parties) (provided on the Court's Website): The affidavit must be separately filed with the Clerk of Court in all cases but shall be considered as an exhibit by the Court and retained in the Court Exhibit file. All documentation of income shall be attached to this affidavit.

(H) **Private Health Insurance Questionnaire** (provided on the Court's Website): The form must be separately filed with the Clerk of Court in all cases with minor children but shall be considered as an exhibit by the court and retained in the Court Exhibit file as is set forth below.

(I) **IV-D Application** (provided on the Court's Website): The application shall be fully completed, signed by the party and separately filed with the Clerk of Court only in cases where child or spousal support is being sought but shall be considered as an exhibit by the Court and retained in the Court Exhibit file as is set forth below.

(J) A Decree with a copy of the Separation Agreement and a guidelines worksheet (if minor children are at issue) shall be presented to the Assignment Commissioner at the time of filing.

8.04 **Special Filings**

(A) **Parenting Declarations:** In all post-divorce motions seeking a reallocation of parental rights and responsibilities, the parties shall file a Parenting Declaration pursuant to R. C. 3127.23. Motions seeking modification of visitation shall not require a Parenting Declaration.

(B) **Notice of Intent to Relocate:** A Notice of Intent to Relocate must be filed in every case in which the Residential Parent intends to move to a new location either within or outside of the State of Ohio. (Forms are available on the Court's Website.)

(C) **Summons and Order to Appear & Request for Court-Appointed Counsel:** All Motions for Contempt or To Show Cause shall be accompanied by a Summons and Order to Appear and Request for Court-Appointed Counsel, as set forth in the court forms on the Court's Website. The Summons shall be stapled to the front of the motion as the cover page.

(D) **Pre-Trial Statement:** The Pre-Trial Statement required under Local Rule 16.02 shall be considered an exhibit. The statement shall be filed with the Clerk of Court and served on opposing counsel or parties but shall be provided to the Court for maintenance in the Court Exhibit file as set forth below.

8.05 **Court Exhibit File:** When a Complaint or Counterclaim for Divorce, Annulment, or Legal Separation, an Answer, or a Petition for Dissolution is filed, the Domestic Relations Court shall keep a separate Court file for the Affidavits of Income, Expenses and Financial Disclosure, Private Health Insurance Questionnaire, Family Information Sheet, IV-D Applications and Exhibits for each case except for Exhibits presented at trials before the Judge or a Magistrate. Copies of these documents shall be time stamped by the Clerk of Court and served upon the parties pursuant to Instructions for Service.

(A) Upon the request of either party or an order of the Court, the Affidavits and Exhibits contained within this file shall be considered as part of "the original papers and exhibits filed in the trial court" for purposes of the record [Appellate Rule 9(a)].

(B) A person may review these files upon signed request to the Court.

8.06 Mutual Restraining Order: In all cases after the initial Complaint has been filed, both parties are restrained from the actions set forth in the Court's Mutual Restraining Order. Upon Plaintiff's filing of a Complaint or Defendant's filing of a Counterclaim, the filing party is deemed to have notice of the Mutual Restraining Order.

8.07 Clerk Shall Require Conformity: The Clerk of Court may not receive for filing any pleadings which do not conform to this rule.

8.08 Leave to Plead: Leave to plead may be obtained only by written motion to the Court and for good cause shown. The motion shall set forth the number of leaves to plead previously obtained and the total length of those leaves.

8.09 Scheduling: All motions shall first be scheduled for hearing by the Assignment Commissioner, then filed with the Clerk of Court and shall be subject to either affidavit or evidentiary hearing. The Assignment Commissioner shall refuse to accept for filing any motion which fails to comply with these Rules.

8.10 Continuances

(A) **Motions:** All motions for continuance shall be in writing and a copy of the motion shall be immediately provided to the Court's Assignment Commissioner. The movant shall first attempt to secure the consent of opposing counsel, if represented. The motion shall set forth the reason for the continuance, whether consent was obtained or denied and shall state the number of prior continuances. If the motion is granted, the party seeking the continuance must obtain a new hearing date and shall immediately notify the opposing party, counsel, and guardian ad litem, if any. All continuances must be approved by the Court or Magistrate.

(B) **Unavailability of Witness:** When a continuance is requested because a witness is unavailable for a scheduled hearing or trial, the Court may consider alternative methods for receiving the testimony.

(C) **Conflict of Trial Assignment Dates:** When a continuance is requested for the reason that counsel is scheduled to appear in another case assigned for trial on the same date in a different court, the case that was first set for trial shall have priority, pursuant to Sup. R. 41.

(D) The Court will not consider any motion for continuance unless a copy of the conflicting assignment is attached to the motion and the motion is filed not less than fourteen (14) days prior to trial.

8.11 Engaged Counsel: Pursuant to Sup. R. 41(C), if a designated trial counsel has such a number of cases assigned for trial in this or other courts as to cause undue delay in the disposition of such cases, the Judge may impose sanctions against said attorney and may limit the number of cases in which the attorney may serve as counsel in this Court.

8.12 **Determination of Motions without Oral Hearing:** Pursuant to Civil Rule 7(B), the Court may, to expedite its business, determine motions without oral hearing upon the submission of brief written statements of reasons in support and opposition.

RULE 9

SERVICE

9.01 **Service of Pleadings:** A party requesting service by the Clerk of Court must file instructions for service regardless of the form of service requested. Any request for service of a Complaint, Counterclaim, Motion, Order, or other paper requiring service pursuant to the Ohio Rules of Civil Procedure shall be accompanied by a time-stamped copy of the paper to be served.

9.02 **Service of Motions:**

(1) **Pending Cases:** In pending cases, all motions shall be filed with the Clerk of Court and served on counsel for opposing party (or opposing party if not represented); and on the guardian ad litem, where one has been appointed.

(2) **Post Decree:** Any post-decree motion invoking the continuing jurisdiction of the Court shall contain the full names, current addresses and places of employment of both parties in the caption. Notice of the motion invoking continuing jurisdiction shall be served in the manner provided for service of process under Ohio Rules of Civil Procedure 4 through 4.6. If certified mail is utilized, the request for certified mail service shall be made through the office of the Clerk of Court.

9.03 **Process Server (One-Time Appointment):** If a party desires personal service to be made by a special process server pursuant to Civ. R. 4.3(B)(2), that party or counsel must file with the Clerk of Court an Entry appointing a special process server. The following must be stated in the Entry of Appointment:

- (A) The name and address of the person to be appointed as a process server;
- (B) That the person to be appointed as process server is 18 years of age or older;
- (C) That the person to be appointed as process server is not a party or counsel for a party in the action.

9.04 **Process Server (Continuing Appointment):** A person may apply to be designated as a "Standing Special Process Server" for cases filed in this Court by filing an application prescribed by the Court, as set forth on the Court's Website.

9.05 **Service by Publication:**

(A) **When Proper:** In accordance with Civ. R. 4.4, before service by publication can be made, an affidavit of a party or counsel shall be filed with the Court. The affidavit shall state that service of summons cannot be made because the residence of the Defendant is unknown and detail all of the efforts made to determine that the residence cannot be ascertained with reasonable diligence. The Court must give prior approval for service by publication.

(B) **Responsibility:** In all cases when service of process is to be accomplished by publication, it shall be the responsibility of the party to ensure that the publication is accomplished.

(C) **Confirmation:** Upon completion of the last publication of service, the party shall file with the Court an affidavit showing the fact of publication, together with a copy of the Notice of Publication. The affidavit and its exhibits shall constitute the proof of service.

(D) **Posting Locations in Cases of Indigence:** Pursuant to Civ. R. 4.4(A)(2), where the Plaintiff is proceeding in forma pauperis and if the residence of Defendant is unknown, service shall be made by posting and mail. The Court hereby designates the following two (2) additional posting locations in Mahoning County for the purpose of service by publication:

Struthers Municipal Building
6 Elm St.
Struthers, Ohio 44471

Mahoning County Court #3
605 East Ohio Ave.
Sebring, Ohio 44672

RULE 10

TEMPORARY ORDERS BY AFFIDAVIT OR ORAL HEARING

10.01 **Request for Affidavit Order:** Temporary Orders in cases of divorce or legal separation shall be issued on the basis of Affidavits pursuant to Rule 75(N) of the Ohio Rules of Civil Procedure. If a party to a divorce or legal separation wants the Court to issue orders concerning temporary allocation of parental rights and responsibilities, temporary child support, temporary spousal support, or allocation of debts and expenses during pendency, the party requesting temporary orders shall file a Request for Affidavit Order (forms are available on the Court's Website). The Request may be filed with the initial Complaint, or it may be filed after the Complaint is filed. If there are minor children any Request for Affidavit Order shall be

accompanied by the Court's Affidavit of Income, Expenses and Financial Disclosure, Parenting Declaration, Private Health Insurance Questionnaire and IV-D Application (forms available on the Court's Website). **It is the responsibility of the attorney for the party requesting an Affidavit Order to provide an extra copy of the aforementioned forms to the Domestic Relations Assignment Commissioner.**

10.02 Affidavit by Opposing Party: The other party may file a Counter Request for Affidavit Order or Affidavit of Income, Expenses and Financial Disclosure within fourteen (14) days of being served with the Request for Affidavit Order. Unless previously filed, any Counter Request shall be accompanied by the Court's Affidavit of Income, Expenses and Financial Disclosure, Parenting Declaration and IV-D Application (forms available on the Court's Website). **Any party filing a responsive document as described above shall take a copy of the document(s) to the Domestic Relations Assignment Commissioner so that it may be considered by the Magistrate at the non-oral hearing on affidavit orders.**

10.03 Scheduling of Hearing: When the party requesting an Affidavit Order provides a copy of the Request for Affidavit Order to the Domestic Relations Assignment Commissioner, the Assignment Commissioner shall set the Request for Affidavit Order for a non-oral hearing on the Magistrate's Docket.

10.04 Service on Opposing Party: Any party filing the Request for Affidavit Order shall mail a copy of the Request to the opposing party.

10.05 Evidence and Order: The Court shall consider the sworn affidavits of the parties and may, upon review of same, issue an Order concerning the relief requested. The Court also may, upon review of the affidavits submitted, refuse to issue a 75(N) Order, or may set the matter for an oral hearing.

10.06 Motion for Oral Hearing: Upon the issuance of a 75(N) Order, either party may file a motion for an oral hearing to have the Court consider modification of its prior Order. A motion for an oral hearing must state with particularity the reason why an oral hearing is required. The motion must be filed with the Clerk of Court after the moving party obtains a hearing date from the Domestic Relations Assignment Commissioner. Unless the Judge or Magistrate grants a stay, a motion for oral hearing shall not suspend the Temporary Order.

RULE 11

ADDITIONAL EX-PARTE ORDERS

11.01 Ex-Parte Orders

(A) **Civ. R. 75(I):** In addition to Temporary Orders by Affidavit, pursuant to Local Rule 10 and Mutual Restraining Orders, the Court may issue Ex-Parte Orders, with or without bond, pursuant to Civ. R. 75(H), when it is made to appear to the Court by affidavit that:

(1) The opposing party is about to dispose or encumber property, or any part of property, so as to defeat the other party in obtaining spousal support or an equitable division of the marital property.

(2) A party to the action, or a child, is about to suffer physical abuse, annoyance, or bodily injury by the other party.

The Restraining Order may be issued without notice and shall remain in force during the pendency of the action unless the Court or Magistrate otherwise orders. Prior to the issuance of an Ex-Parte Order, the party seeking the same shall make a good faith effort to provide opposing counsel, if any, with REASONABLE notice of the application to the Court for such relief.

(B) Parenting and Visitation Issues: No Ex-Parte Orders concerning parenting or visitation shall be issued except in emergency situations where third party independent corroboration of the danger is provided by credible testimony from sources including but not limited to the police or a children's services agency. When family violence is involved, domestic violence procedures should be followed. The party seeking the Order shall be present for the ex-parte hearing.

(C) Notice of Hearing: When an Ex-Parte Order is granted, a hearing may be scheduled and held promptly, and as soon as is practicable, to determine whether the Order is required. The party granted the same shall make a good faith effort to provide opposing counsel and unrepresented adverse parties with immediate notice of the hearing date.

(D) Bond: The posting of bond is within the discretion of the Court.

(E) Dissolving of Orders: A party against whom an Ex-Parte Restraining Order was issued may file a motion, supported by affidavit, requesting that the Order be dissolved. In the absence of agreement of the parties as to the terms and conditions for dissolving such Orders, the matter shall be set for hearing before the Judge or Magistrate.

RULE 12

CONTEMPT AND MOTIONS TO SHOW CAUSE

12.01 Contents of Motion: All motions shall contain the following:

(A) A reference to the date and language of the former Order to which the motion relates.

B) Specific facts, or an affidavit setting forth specific facts, forming the basis for the motion.

(C) The motion shall contain the Court's official Summons and Order to Appear signed by the Court or Magistrate which shall be stapled to the front of the motion as the cover page.

(D) Motions for contempt shall be served pursuant to Civ. R. 4 through Civ. R. 4.6. Personal service of a Motion For Contempt or Motion to Show Cause is preferred to ensure that the non-moving party has actual notice of the hearing.

(E) The Court may dismiss any motion which fails to comply with this rule.

12.02 Contempt for Unpaid Medical Bills: A motion alleging contempt for unpaid medical bills shall be accompanied by a fully executed "Explanation of Medical Bills" form set forth on the Court's Website. Copies of the medical bills in dispute shall not be attached to the motion but such bills and other supportive documentation shall be marked as exhibits and submitted as evidence at the hearing. All Motions to Compel Payment of Medical Bills shall be filed within twenty-four (24) months of the initial billing to the moving party.

12.03 Attorney Fees: Attorney fees may be awarded in any contempt action involving child support, visitation or spousal support. Absent evidence to the contrary, a fee of **\$500.00** shall be considered a presumptively reasonable fee without the necessity of formal proof.

12.04 Appointment of Attorney in Contempt Actions: The Court will appoint counsel to indigent parties upon their completion of the requisite Indigency Certification Form and a finding of inability to pay attorney fees. In accepting the appointment, the attorney shall accept no compensation beyond that awarded by the Court.

12.05 Payment of Fees: Within fourteen (14) days of the conclusion of the case, the appointed attorney shall submit the required form for payment of fees.

RULE 13

OBJECTIONS TO DECISION/MOTION TO SET ASIDE

13.01 Magistrate's Decision: Objections to a Magistrate's Decision must be filed within fourteen (14) days of the date on which the Magistrate's Decision was filed with the Clerk of Court. The opposing party may file an objection or response within ten (10) days after the first objection. The filing of said Objections shall stay the Magistrate's Decision until the ruling of the Judge is rendered.

13.02 **Magistrate's Order:** To appeal a Magistrate's Order, a Motion to Set Aside the Order must be filed within ten (10) days of the date on which the Magistrate's Order was filed with the Clerk of Court. The Order is not stayed unless the Judge or the Magistrate grants a stay.

13.03 **Hearing Date Obtained:** Prior to the filing of Objections or a Motion to Set Aside, a hearing date must be obtained from the Court's Assignment Commissioner. The hearing date shall be set forth in the Objections or Motion and served upon the opposing counsel and party in accordance with the Civil Rules.

13.04 **Transcripts:** Objections or Motions to Set Aside shall be supported by a transcript of all the evidence submitted to the Magistrate relevant to that fact or an affidavit of that evidence if a transcript is not available. A transcript shall not be required if the objection is only to an issue of law. The transcript must be filed by the moving party within thirty (30) days of the filing of the objection unless the Court, in writing, extends the time due to the inability of the reporter to complete the transcript of the testimony.

(A) **Written Request:** The moving party shall file a written Notice requesting the transcript within three (3) days of the filing of the Motion to Set Aside or Objections and furnish a copy of same to the Court. The Notice shall state the name of the Court Reporter preparing the transcript. At the time the transcript is ordered, the attorney or party shall arrange for payment of the court reporter.

(B) **Dismissal for Non-Compliance:** Failure to file a transcript when required shall result in dismissal of the Motion to Set Aside or the Objection.

PRE-TRIAL & TRIAL RULES

RULE 14

DISCOVERY

14.01 Discovery Procedures

(A) **In General:** Civil Rules 26 through 37 shall apply to any action. The purpose of this Rule is to encourage prompt and complete discovery to avoid the Court's involvement in the discovery process.

(B) **Mandatory Disclosure:** Each party has the affirmative duty, within seventy-five (75) days of the filing of an Answer or Counterclaim, to disclose to the other party the following information and documents which are included in the Court's Mandatory Discovery Order as set forth on the Court's Website.

(C) **Authorization:** All parties shall sign any authorization necessary for the opposing party to obtain full and detailed wage, benefit and pension information.

(D) **Sanctions:** Failure to comply with this rule may result in sanctions pursuant to Civ. R. 37, including but not limited to contempt citations, award of attorney fees, litigation expenses, possible dismissal of claims, or restrictions on the submission of evidence.

RULE 15

STATUS CONFERENCES

15.01 **Status Conferences:** The Court may schedule a status conference in parenting cases or in any other action before the Court. Notice shall be sent to all parties pursuant to the Civil Rules. The Judge and Magistrates shall have discretion to conduct a status conference by telephone with both counsel.

RULE 16

PRE-TRIAL CONFERENCES

16.01 **Purpose:** A pre-trial conference may be held in every contested case. The purpose of the conference is to encourage settlement.

16.02 **Pre-Trial Statement:** A Pre-Trial Statement shall be filed prior to the pre-trial and served on the opposing party prior to the scheduled pre-trial conference (Pre-Trial Statement found on the Court's Website).

16.03 **Attendance by Counsel:** The attorneys who will be present at trial shall attend all pre-trial conferences except with leave of court. A continuance may not be granted on the grounds that the trial attorney is not prepared to go forward if he or she has failed to attend the pre-trial conference. Failure to attend or comply with the requirements of this rule may result in sanctions.

16.04 **Attendance by Parties:** All parties shall be present at the pre-trial conference, except with leave of court.

RULE 17

TRIALS

17.01 Exhibits.

(A) All exhibits shall be marked prior to trial and indicate whether submitted by Plaintiff or Defendant. Plaintiff shall use numbers and Defendant shall use letters. The exhibit marker shall indicate the date of submission.

(B) The Judge and Magistrates may set orders during the pendency of a case imposing time limits for the exchange and submission of all documents and a list of other exhibits to be introduced at the trial or evidentiary hearing.

(C) The Judge and Magistrates may set orders during the pendency of a case imposing time limits for the submission of a list of witnesses, including experts, who will testify at trial or evidentiary hearing.

(D) The Judge and Magistrates may set orders during the pendency of a case imposing time limits for submitting to the Court and opposing counsel all expert witness reports.

17.02 Trial Briefs/Findings and Conclusions: The Court may require the parties to file Trial Briefs and/or Proposed Findings of Fact and Conclusions of Law.

17.03 Attorney Fees: An award of attorney fees is discretionary with the Court and shall be awarded in accordance with the following protocol and considerations:

(A) A request for attorney fees and expenses to prosecute an action shall be made in writing and shall be included in the body of a motion or other pleading that gives rise to the request for fees.

(B) At the time of the final hearing on the motion or pleading that gives rise to the request for attorney fees, the attorney seeking such fees shall present:

(1) Testimony and an itemized statement describing the services rendered, the time for such services, and the requested hourly rate for in-court time and out-of-court time.

(2) Testimony as to whether the case was complicated by any or all of the following: new or unique issues of law; difficulty in ascertaining or valuing the parties' assets; problems with completing discovery; any other factor necessitating extra time being spent on the case; testimony regarding the attorney's years in practice and experience in domestic relations cases; evidence of the parties' respective income and expenses, if not otherwise disclosed during the hearing.

(C) Expert testimony other than the attorney requesting fees is required to prove both the necessity and reasonableness of attorney fees.

(D) Failure to comply with the provisions of this rule may result in the denial of a request for attorney fees.

(E) Any attorney fee award made by this Court must be entered in favor of a party litigant and not in favor of a party's attorney. Such fee may be ordered payable through the Child Support Enforcement Agency.

17.04 Exhibits

(A) Exhibits admitted during trials or hearings before the Judge shall be retained by the Official Court Reporters. Exhibits admitted during trials or hearings before the Magistrate shall be retained by the Court.

(B) Exhibits retained by the Official Court Reporters shall be made available for review and/or copying in accordance with the protocols of that office. Exhibits retained by the Court shall be made available for review during normal business hours upon reasonable advance notice.

(C) Exhibits retained by the Court may be discarded after reasonable notice to the parties after the time for appeal has expired.

RULE 18

COURT APPOINTMENT OF VALUATION EXPERTS

18.01 When used: Whenever the value of an asset is in dispute, the Court may, upon motion of either party, or upon the Court's own motion, and for good cause shown, appoint an expert for the purpose of appraisal.

18.02 Content of Order: The Order of appointment shall state specifically the property to be valued, the name of the expert, the allocation of any costs or fees, and what advancement, if any, is to be made to the expert. The Order shall state that the parties are to cooperate fully with the expert.

RULE 19

MEDICAL EXPENSE SCHEDULE

19.01 **Standard Order:** Pursuant to R.C. 3119.30, the parties shall share the cost of medical, dental, optical and prescribed drug expenses not covered by insurance in accordance with the percentages on each party's income as shown on the most recent worksheet computation, or as otherwise ordered by the Court.

RULE 20

QUALIFIED MEDICAL CHILD SUPPORT ORDER (QMCSO)

20.00 **Procedure:** In all cases involving employer-provided group health plans, as defined in Employment Retirement Income Security Act of 1974 Section 607(1), and requested by the employer, a QMCSO shall be issued identifying the medical, dental, optical and other health benefits, if any are available, as well as listing the child(ren) of the parties, who shall be designated as the "Alternate Recipients." The Alternate Recipients shall be enrolled in the group health care plans and shall receive all medical, dental, optical and other health benefits available under any of the employer's group health plans, as if they meet all the requirements of a dependent and thus are dependents under the group health plans.

RULE 21

DISSOLUTION OF MARRIAGE HEARINGS

21.01 **Scheduling:** Prior to filing a Petition for Dissolution of Marriage with the Court, the attorney for the petitioner, or in the event both petitioners are represented by counsel, the attorneys shall obtain a hearing date from the Assignment Commissioner. If a Shared Parenting Plan is included with the petition, an additional copy of the same shall be submitted to the Court for review.

21.02 **Decree:** The Decree, together with all necessary orders and copies, shall be supplied to the Court prior to the hearing.

21.03 **Workshop for Parents:** In order for Dissolutions with minor children to be granted, both parties shall have attended the Court's Workshop for Parents. The Decree will not be signed until certification of attendance is provided to the Court. If no certification is received within ninety (90) days of the filing of the petition, the same may be dismissed.

21.04 **Attendance:** Absent special circumstances, if either party fails to appear at the Dissolution Hearing, the Court may dismiss the same.

21.05 Disagreement: Pursuant to R.C. 3105.65, if at the time of the hearing, either spouse is not satisfied with the Separation Agreement, or does not wish a dissolution of the marriage, the Court shall dismiss the petition.

21.06 Conversion of Dissolution Action to Divorce Action: Pursuant to R.C. 3105.65, an action for dissolution may be converted to an action for divorce upon the filing of a motion, along with a Complaint for Divorce and any necessary affidavits. The motion and the Complaint shall be submitted to the Court along with an Entry Converting Dissolution to Action for Divorce, as set forth on the Court's Website. If the motion is approved, the divorce action shall proceed in accordance with the Civil Rules in the same manner as if the motion had been the original Complaint. The motion shall be filed no later than seven (7) days after the date on which the dissolution hearing was scheduled.

RULE 22

DIVORCE HEARINGS

22.01 Scheduling: The Court will not hear an uncontested divorce earlier than forty-two (42) days after the service of the Complaint. Counsel for the Plaintiff may schedule the final hearing twenty-eight (28) days after the completion of service upon the Defendant.

22.02 Notice: In divorces where there is no counsel of record, the Court shall issue notice to the adverse party pursuant to Civ. R. 75(L).

22.03 Workshop for Parents and Children: In order for divorces with minor children to go forward, both parties shall have attended the Court's Workshop for Parents and provide certification of the same to the Court prior to the hearing. Depending upon the facts of the individual case, the Court may not grant a non-appearing Defendant companionship rights until he/she attends the Workshop for Parents. For children between the ages of 8 and 12 years of age, the court may require their attendance at a Workshop for Children.

22.04 Valuation of Assets: In divorces, all marital and separate assets shall be identified and the values of same set forth unless affirmatively waived by the parties, who mutually agree to its division and equitable distribution. In the absence of a written appraisal of real estate, the county auditor's appraisal may be accepted as evidence of value. In the absence of a written appraisal of motor vehicles, the NADA or Kelly Blue Book values may be accepted as evidence of value.

22.05 Witnesses: Only one corroborating witness who has personal knowledge of the facts shall be required.

22.06 Attendance/Dismissal: In uncontested divorce cases, if the Plaintiff does not attend the final hearing, the Court shall dismiss the case for failure to proceed. If the Defendant appears and wishes to contest any issue, the Court may convert the hearing into a status conference.

22.07 Judgment Entries: At the time of the uncontested hearing, counsel for the Plaintiff shall present to the Court a judgment entry and all necessary Orders together with sufficient copies for the Child Support Enforcement Agency and parties.

22.08 Conversion of Divorce Action to Dissolution Action: Pursuant to R.C. 3105.08 and 3105.62, an action for divorce may be converted to an action for dissolution upon the filing of a motion, along with a Petition for Dissolution and Separation Agreement. The motion, with all supporting documents, shall be submitted to the Court along with an Entry Converting Divorce to Action for Dissolution as set forth on the Court's Website.

RULE 23

JUDGMENT ENTRIES, DECISIONS & ORDERS

23.01 Preparation: The Court may order counsel for either party to prepare a judgment entry. A copy of the same shall first be submitted to opposing counsel within thirty (30) days, unless the time is extended by the Court. The parties shall abide by the following protocol:

(A) The opposing party shall have fourteen (14) days in which to approve or reject the judgment entry.

(B) If the opposing party fails to take any action on the judgment entry within fourteen (14) days, the preparer may present the entry for journalization by certifying that the judgment entry was submitted to the opposing party and that no response was made.

(C) If a judgment entry is not presented to the Court within forty-five (45) days of the hearing, counsel and parties shall be summoned to appear before the Court.

(D) In the event of a dispute over the content of an entry, the Court may order a transcript of the proceedings and assess the cost of same.

(E) Failure of an attorney to comply with the above may result in vacating any award of attorney fees, a finding of contempt, imposition of a fine, or dismissal of a case.

23.02 Signature by Both Parties: Unless excused by the Court, all agreed judgments and orders shall be signed by both parties and counsel. Child Support Enforcement Agency Orders, Restraining Orders, Orders Appointing Process Servers, and Orders Permitting Withdrawal as Counsel are excepted from this rule.

23.03 General Contents of Judgment Entries, Decisions and Orders Related to Child Support and Spousal Support and Divisions of Property: All judgment entries, magistrate's decisions and orders related to child support or spousal support and the division of property shall contain the following information:

(A) Names and addresses of the parties and the full names and dates of birth of any minor children (if applicable); and only the last four digits of account numbers.

(B) Name and address of employer of child support obligor or the obligor's payor. In the event that the responsibility for providing private health insurance changes to a third party spouse, a copy of the health insurance card along with the name and address of the health insurance company shall be provided to the Child Support Enforcement Agency.

(C) All mandatory language as set forth on the Court's Website.

(D) Standard language for QDROs and DOPOs set forth on the Court's Website, if applicable.

23.04 Required Documents for Support Orders: A child support worksheet shall accompany all judgment entries awarding child support.

23.05 Advance Submission of Entries: In all uncontested divorces or dissolutions of marriage, counsel shall submit all proposed entries, plans and documents to the Court for its prior review and approval.

23.06 Emancipation: Any judgment entry terminating a child support obligation by the emancipation of a minor child shall address the existence of any support arrearage and/or any waiver thereof. If there remain other minor children of the parties, a new child support worksheet must be undertaken and the judgment entry shall include the modification.

23.07 Required Language for Child Support, Spousal Support and Health Insurance: In compliance with the applicable provisions of R.C. 3119.01, and Seq., the Court mandates the use of the specific language in Findings of Fact, Orders, Judgment Entries and Decrees which addresses child support, spousal support and/or health insurance. The required language is available on the Court's Website.

RULE 24

DIVISION OF PENSION ORDERS

24.01 Qualified Domestic Relations Order (QDRO).

(A) Unless otherwise ordered, the alternate payee entitled to the pension or retirement plan shall be responsible for preparing the Qualified Domestic Relations Order "QDRO" for submission to the Court.

(B) Whenever it is ordered that a pension or retirement program be divided by a QDRO the parties and counsel shall sign and approve the original of a QDRO submitted to the Court, and shall sign and approve any subsequent QDRO submitted to the Court, unless waived by the Court.

(C) If the Court ordered a division of a pension or retirement plan, the Court may assign the responsibility to submit the QDRO.

(D) The QDRO shall be submitted to the Court along with the Judgment Entry for Divorce or Decree of Dissolution of Marriage. The party preparing the QDRO shall be responsible to submit the QDRO to the plan administrator for acceptance of same.

(E) The QDRO shall include the name and address of the plan administrator on the front page.

24.2 Division of Property Order (DOPO).

(A) The division of retirement benefits for members of the Ohio Public Employees Retirement System (OPERS), State Teachers Retirement System (STRS), School Employees Retirement System (SERS), Ohio Police And Fire Pension Fund (OP&F), and Ohio Highway Patrol Retirement System (HPRS) shall conform with the requirements of each agency's respective administrative rules.

(B) Unless otherwise ordered, the participant of the plan shall be responsible for preparing the DOPO for submission to the Court.

(C) Whenever it is ordered that a retirement plan be divided by a DOPO the parties and counsel shall sign and approve the original of a DOPO submitted to the Court, and shall sign and approve any subsequent DOPO submitted to the Court, unless waived by the Court.

(D) If the Court ordered a division of a retirement plan, the Court may assign the responsibility to submit the DOPO.

(E) The DOPO shall be submitted to the Court along with the Judgment Entry for Divorce or Decree of Dissolution of Marriage. The party preparing the DOPO shall be responsible to submit the DOPO to the plan administrator for acceptance of same.

(F) The DOPO shall include the name and address of the plan administrator on the front page.

RULE 25

WITHDRAWAL OR SUBSTITUTION OF COUNSEL

25.01 Withdrawal: After entering an appearance as counsel, an attorney shall not be permitted to withdraw unless:

(A) Counsel timely files a written motion with the Court stating the grounds for withdrawing from the case, together with a proper certification that counsel has notified the client of all subsequent hearing dates and the necessity for attendance at same, and has notified both the client and opposing counsel of the withdrawal.

(B) The Court grants the motion.

25.02 Substitution of Counsel of Record: Any attorney entering a case on behalf of a party who has had previous representation in the action, shall do so by written notice of substitution filed with the Clerk of Court and hand-delivered to the Court. The notice shall contain a certification that previous counsel has been notified of the substitution. A copy of the notice shall be promptly provided to the Court.

RULE 26

DISMISSAL OF CASES

26.01 Failure of Service: If the movant fails to obtain service upon his or her complaint or motion within ninety (90) days of filing, the Court may dismiss the same for want of prosecution.

26.02 Unexcused Absence: The unexcused failure of an attorney and/or party to appear for a hearing at the scheduled time may subject the offending person to sanctions.

26.03 Failure to Comply: The Court may dismiss an action upon the showing that either party has failed to comply with all Status Conference or Pre-Trial Orders.

RULE 27

MOTION FOR RELIEF FROM JUDGMENT

27.01 Motions: All Motions for Relief From Judgment, other than those based upon clerical mistakes, shall comply with Civ. R. 60(B).

27.02 Supporting Materials: The motion shall be supported by materials which demonstrate:

(A) The timeliness of the motion

- (B) The reasons for seeking relief
- (C) A material defense or claim.

27.03 Memorandum: The moving party shall file a memorandum of fact and law and may include affidavits, transcripts, depositions, answers to interrogatories, exhibits, and other relevant materials and shall serve a copy upon the opposing party and deliver a copy to the Court.

27.04 Opposition to Motion: The opposing party may file a brief or memorandum and supporting materials within fourteen (14) days after service of the motion and shall serve a copy upon the moving party and deliver a copy to the Court.

27.05 Determination: Except when the Court otherwise orders, Motions for Relief From Judgment shall be determined without oral argument pursuant to Civ. R. 7(B).

PARENTING TIME AND VISITATION

RULE 28

PARENTING TIME AND VISITATION

28.01 Model Schedules: Pursuant to R.C. Section 3109.051(F)(2), the Court adopts the following Parenting Time Schedules as set forth on the Court's Website for use in all new cases, as well as in cases in which the Court specifically orders this current version:

- (A) Local Parenting Time Schedule
- (B) Long Distance Parenting Time Schedule
- (C) Transitional Parenting Time Schedule

The Court shall have discretion to deviate from these Schedules based upon the factors set forth in R.C. 3109.051(D).

28.02 Traveling outside the State of Ohio: Parents shall be permitted to travel with their children to locations outside the State of Ohio without notice to the other parent or the Court for periods not to exceed forty-eight (48) hours. For travel periods that will exceed forty-eight (48) hours, the traveling parent shall notify the other parent of such travel plans in writing at least seven (7) days prior to the trip. Said notice shall, at a minimum, include the scheduled departure and return dates, travel arrangements and a telephone number where the child(ren) can be reached in case of an emergency.

28.03 Moving within or outside the State of Ohio: In the event the Residential Parent decides to relocate within or outside the State of Ohio, said parent shall, at least sixty (60) days

prior to the planned move, give written notice to the Court of the intention to relocate by filing a Notice of Intent to Relocate form issued by the Court and posted on the Court's Website. A copy of said notice shall be furnished to the Court's Assignment Commissioner at the time of filing. Upon the filing of said notice, the Court shall mail a copy of the notice to the Non-Residential Parent unless the Residential Parent objects to said mailing for reasons of alleged domestic violence or abuse or neglect of a child. The Court will not normally schedule a hearing on the notice unless the Non-Residential Parent requests the same in writing. The purpose of any such scheduled hearing shall be to determine whether it is in the best interests of the child(ren) to revise the parenting time schedule. If after sixty (60) days no objection has been raised by the Non-Residential Parent, the Court may issue an entry modifying the parenting time schedule as requested by the Residential Parent.

28.04 Notice of Intent to Relocate: The Court shall make available separate Notices of Intent to Relocate for parties when the proposed relocation will result in less than two (2) hours of travel time between the parents, and when the proposed relocation will result in more than two (2) hours travel time between the parents. (The Notices are available on the Court's Website.)

28.05 Shared Parenting: In accordance with R.C. 3109.04(G), plans for shared parenting shall include provisions covering all factors that are relevant to the care of children, including, but not limited to, physical living arrangements, child support obligations, income tax dependency exemptions, provision for the child(ren)'s health care, school placement (including the location where the child(ren) shall catch the bus), and the parent with whom the child(ren) will be physically located during legal holidays, school holidays and other days of special importance.

RULE 29

WORKSHOP FOR PARENTS & CHILDREN

29.01 Workshop for Parents: A Court approved Workshop for Parents must be attended by the parties prior to final hearings in actions for divorce, legal separation and dissolution of marriage where minor children are involved. A person may be denied parenting time rights until the Workshop has been attended.

29.02 Workshop for Children: A Court approved Workshop for Children may also be required for the children of parents going through a divorce or dissolution of marriage where the children are between the ages of 8 and 12.

29.03 Certificate of Attendance: Upon the completion of the Workshops, a Certificate of Attendance will be issued for each participant and shall be furnished to the Court.

29.04 Motions to Modify Parental Rights: After the filing of a motion to modify the allocation of parental rights and responsibilities, including visitation, each party may be required to attend a workshop if not previously attended.

RULE 30

GUARDIAN AD LITEM

30.01 Appointment: Upon the motion of either party or at the discretion of the Court, the Court may order a guardian ad litem appointed at any time when it is essential to protect the interests of a minor child(ren) or a party. Once the matter has been set for trial, no motion for appointment of guardian ad litem shall be granted except by leave of Court. The duties of the guardian ad litem may include, but not be limited to, meeting with the child alone for discussion, observing the child(ren)'s interaction with each parent and talking with the child(ren)'s other key individuals such as teachers, neighbors and relatives. The guardian shall make a recommendation to the Court. The guardian need not be an attorney.

30.02 Cooperation: Unless otherwise provided, it is the responsibility of each party involved in the litigation to timely contact the guardian ad litem and to provide the guardian with information relating to the child(ren).

30.03 Report: Unless otherwise directed by the Court, the guardian ad litem shall prepare a report not less than seven (7) days in advance of the settlement conference date. The report shall be made available to either parent or counsel not less than seven (7) days prior to the hearing upon written request. The report shall be signed by the guardian who shall be subject to cross-examination concerning the contents of the report.

30.04 Fees: The Court may initially order either or both parties to deposit with the Clerk of Court a set sum towards the anticipated fee for the guardian ad litem. The Court may set the hourly rate permitted to be charged by the guardian ad litem for services rendered and may award the same at the completion of service upon submission of a detail of hours setting forth the time devoted. Should the deposited amount prove insufficient to cover the fee, the Court shall order the parties to share the balance due in proportionate amounts as the Court deems appropriate.

30.05 Discharge: Unless otherwise directed, counsel for the parties shall include in the final Entry or Decision a provision for the discharge of the guardian ad litem.

RULE 31

PARENTING INVESTIGATION

31.01 Investigation Involving Minor Children: The Court may order an investigation as to the character, family relations, past conduct, earning ability and financial worth of the parties to the action. All parties shall submit to the investigatory process.

31.02 Report: Unless otherwise directed by the Court, pursuant to Civ. R. 75(D) and R.C. 3109.04, the investigator shall prepare a report for the Court not less than seven (7) days in

advance of the hearing date. The report of the investigator shall be made available to either parent or counsel upon written request not less than seven (7) days before hearing. The report shall be signed by the investigator who shall be subject to cross-examination by either party concerning the contents of the report.

31.03 Fees: The Court may tax as costs all or any part of the fees and expenses of the investigation.

RULE 32

PSYCHOLOGICAL AND CUSTODY EVALUATIONS

32.01 Appointment: The Court may order custody and/or psychological or psychiatric evaluations of the parties, the children or any interested third party. Upon motion of either party, the Court shall determine the necessity for such evaluation.

32.02 Report: Unless otherwise directed by the Court, the psychologist or psychiatrist will provide the Court with the original written report and recommendations not less than seven (7) days prior to the final hearing. The report of the psychiatrist or psychologist shall be made available to either parent or counsel not less than seven (7) before the final hearing upon written request. The report shall be accepted into evidence as the psychologist's or psychiatrist's direct testimony.

32.03 Fees: The Court may initially order either or both parties to deposit with the Clerk of Court a set sum towards the anticipated fee for the evaluations. Should the deposited amount prove insufficient to cover the fee, the Court shall order the parties to share the balance due in proportionate amounts as the Court deems appropriate.

RULE 33

INTERVIEWS WITH CHILDREN

33.01 In Camera: All interviews with children shall be conducted in camera pursuant to the requirements of R.C. 3109.04. The Court may permit counsel or the guardian ad litem to be present. The transcript or tape of the child's interview shall be sealed and neither party shall be permitted to obtain a copy without a court order and for good cause shown.

33.02 Affidavits: Affidavits signed by children shall not be accepted for filing nor admitted into evidence as exhibits. Pursuant to R.C. 3109.04(B)(3), other exhibits relating to the children such as writings, video and tape recordings, or transcriptions of same, shall not be accepted for filing or admitted into evidence.

RULE 34

PARENTING COORDINATOR

34.01 The Court may appoint a parenting coordinator in those cases where the parents are in such a state of conflict that they are unable to agree upon the implementation of the allocation of parental rights and responsibilities and/or parenting time. Such appointment shall be with the consent of the parents who shall be responsible for entering into a written agreement with the parenting coordinator regarding length of term, amount and manner of compensation, and authority to make decisions regarding the minor child(ren). The decision making authority of the parenting coordinator shall not affect the Courts exclusive jurisdiction to determine the allocation of parental rights and responsibilities or the parenting time.

34.02 Any parenting coordinator employed by the parties, or with whom the Court makes referrals shall have experience in areas related to family law and may be an Attorney or a mental health professional.

RULE 35

CONSENT ENTRIES

35.01 **Consent Entries:** A Consent Judgment Entry relating to the allocation of parental rights and responsibilities may be submitted to the Court without the necessity of a motion or hearing only if signed by both parties, and both counsel. If the party relinquishing the status of Residential Parent is unrepresented, the case must be scheduled for hearing. A notice of hearing shall be issued by the Court and filed with the Clerk of Court. In the event that the responsibility for providing private health insurance changes to a third-party spouse, a copy of the health insurance card along with the name and address of the health insurance company shall be provided to the Child Support Enforcement Agency.

DISPUTE RESOLUTION

RULE 36

FAMILY SERVICES, CONCILIATION & COUNSELING

36.01 **Family Services Department:** The Court's Family Services Department shall coordinate all Dispute Resolution and Family Services within the Court, including, but not limited to the screening and assessment of all parenting cases; the coordination of appointment of mediators, conciliators, guardians ad litem, custody investigators, counselors and mental health professionals; the scheduling and monitoring of the attendance of parties at Parenting

Workshops; assisting parties in developing companionship schedules and shared parenting plans; providing informal dispute resolution of minor issues; and facilitating agreed changes in the allocation of parental rights and out of state visits and relocation.

36.02 Conciliation: Pursuant to R.C. 3105.091, at any time after thirty (30) days from service, a party by motion, or the Court sua sponte, may initiate conciliation for any period of time not to exceed ninety (90) days.

36.03 Family Counseling: If the parties have minor children, the Court may order family counseling during the course of the proceedings and may designate the counselor, type of counseling, length of time and costs or any other specific requirements. The Court may request the designated counselor to prepare an Assessment Report and Recommendation for the Court.

36.04 Report and Hearing: Upon completion of the Conciliation Assessment Report and Recommendation, notice shall be provided to the Court and to counsel for each party or to the party, if proceeding pro se. A hearing shall be set by counsel for the party seeking relief to determine if further orders consistent with the Recommendations are necessary. If no hearing is set, or, if no further orders are made concerning conciliation counseling, the case shall proceed to completion in its normal course.

36.05 Time Limits: In no case shall an Order for Conciliation Assessment or Conciliation Counseling extend beyond ninety (90) days without leave of the Judge.

RULE 37

MEDIATION

37.01 Uniform Mediation Act and Superintendence Rule 16: By this Rule, the Court incorporates by reference R.C. 2710 “Uniform Mediation Act” (UMA) and R.C. 3109.052 which addresses Mediation of Differences as to Allocation of Parental Rights and Responsibilities and Rule 16 of the Supreme Court of Ohio Rules of Superintendence. The purpose of the rule is to promote greater efficiency and public satisfaction through the facilitation of the earliest possible resolution of disputes through the use of mediation.

37.02 Referrals to Mediation: A Domestic Relations case may be referred to mediation by order of the Court. The Court may issue the order on its own motion, upon the motion of a party, or upon agreement of the parties. The following actions shall be exempted from mediation upon request of any party:

- (A) Cases in which one of the parties is mentally ill;
- (B) In emergency circumstances requiring an immediate hearing by a jurist; or
- (C) Cases in which the parties have achieved an executed Agreed Judgment Entry.

37.03 Effect on Orders: While mediation is pending, all remaining court orders shall remain in effect, and no order is stayed or suspended during the mediation process unless otherwise ordered by the Court.

37.04 Confidentiality: Pursuant and subject to the provisions of the “Uniform Mediation Act” (UMA) O.R.C. 2710.01 to 2710.10, O.R.C. 3109.052, the Rules of Evidence, and any other pertinent judicial rule, all communications related to the mediation or made during the mediation process shall be governed by the privileges as set forth in the UMA, Rules of Evidence and other pertinent judicial rules. Upon written agreement, all communications may be confidential.

The Mediator shall inform the Court who attended and whether the case settled. If the case has not settled, then the Mediator shall inform the Court whether the case is scheduled for further mediation or is returned to the Court for further proceedings. No other information shall be communicated by the Mediator to the Court unless all who hold a mediation privilege, including the Mediator, have consented to such disclosure.

37.05 Legal Advice: The efforts of the Mediator shall not be construed as giving legal advice.

37.06 Mediator Conflicts of Interest: The Mediator assigned by the Court to conduct mediation shall disclose to the mediation parties, counsel, if applicable, and any non-party participants any known possible conflicts that may affect the Mediator’s impartiality as soon as such conflict(s) become known to the Mediator. If counsel or a mediation party requests that the assigned Mediator withdraw because of the facts so disclosed, the assigned Mediator should withdraw and request that the assigned Judge or Magistrate appoint another Mediator from the list of qualified Mediators that is maintained by the Court. The parties shall be free to retain the Mediator by an informed, written waiver of the conflict of interest(s).

37.07 Attendance at Mediation Sessions: All parties shall attend scheduled mediation sessions unless previously excused. The Court may order parties to return to mediation at any time. Further, and pursuant to the UMA, all parties may have their attorney and/or other support person or persons attend the mediation session. If counsel or any mediation party becomes aware of the identity of a person or entity whose consent is required to resolve the dispute, but who has not yet been joined as a party in the pleadings, they shall promptly inform the Mediator as well as the assigning Judge or Magistrate of such fact.

In the event that a party wishes to have an additional person who is not a party attend mediation, said party shall provide the Mediator with a request regarding same at least forty-eight (48) hours prior to the mediation session. A copy of the request shall be provided to the other party.

37.08 Failure to Attend Mediation: If any of the individuals identified in the above paragraph fail to attend mediation without good cause, the Court may impose sanctions, including the award of attorney’s fees and other costs, contempt or other appropriate sanctions.

37.09 Termination: If the assigned Mediator determines that further mediation efforts would not benefit the parties, he or she shall inform all interested parties and the Court that the mediation is terminated using the procedure required by this Court.

37.10 Mediation Procedures: In accordance with all applicable provisions of this rule, if a case is deemed appropriate for mediation, one will be scheduled. Any Mediator providing services for the court shall utilize procedures that will:

- (A) Ensure that parties are allowed to participate in mediation, and if the parties wish that their attorneys and other individuals they designate are allowed to accompany them and participate in mediation;
- (B) Screen for domestic violence both before and during mediation;
- (C) Encourage appropriate referrals to legal counsel and other support services for all parties, including victims of and suspected victims of domestic violence;
- (D) Mediation shall not be used for any of the following purposes:
 - (1) as an alternative to the prosecution or adjudication of domestic violence;
 - (2) in determining whether to grant, modify or terminate a protection order;
 - (3) in determining the terms and conditions of a protection order; and
 - (4) determining the penalty for violation of a protection order.
- (E) Nothing in Rule 37.12(D) shall prohibit the use of mediation in a divorce or custody case even though that case may result in the termination of the provisions of a protection order.

37.11 Domestic Violence: When a case is referred to mediation, the Court shall use procedures to ensure that if cases involving domestic violence are referred to mediation, the Court shall make written findings of fact, as required by R.C. 3109.052. Any Mediator providing services for the court shall only conduct a mediation session where violence or fear of violence is alleged, suspected or present when that Mediator has completed the training specified below and ensures that the following conditions are satisfied:

- (A) The person who is or may be the victim of domestic violence has been fully informed, both orally and in writing, of his or her right to decline to participate in the mediation process, and his or her option to have a support person present at the mediation sessions;
- (B) The Mediator has concluded that the parties have the capacity to mediate without fear of coercion or control;

(C) Procedures are in place to provide for the safety of the parties, non-party participants, and the Mediator. The Mediators shall meet with the Court's Family Services Department on a regular basis to discuss safety enhancement issues that pertain to mediation training including, but not limited to, building entry and exits, security personnel available during mediation sessions, room location and emergency contact information.

(D) Mediation shall be terminated if the Mediator believes there is a continued threat of domestic violence or coercion.

37.12 Mediation Memorandum of Understanding: If an agreement is reached in mediation, the assigned Mediator shall immediately prepare a written memorandum memorializing the agreement reached by the parties. The "Mediation Memorandum" may be signed by the parties and counsel (if the "Mediation Memorandum" is signed it will not be privileged pursuant to R.C. 2710.05(A)(1)). The written "Mediation Memorandum of Understanding" may become an order of the court after review and approval by the parties and their attorney, if applicable. No oral agreement by counsel or with parties or an officer of the court will be enforceable unless made in open court.

37.13 Mediation Report: At the conclusion of the mediation, and in compliance with R.C. 2710.06, the court shall be informed of the status of the mediation including all of the following:

- (A) Whether the mediation occurred or terminated;
- (B) Whether a settlement was reached on some, all or none of the issues;
- (C) Attendance of the parties; and
- (D) Future mediation session(s), including date and time.

37.14 Mediator Qualifications: Any Mediator hired to work for the court's Mediation Service or hired by the service as a contract Mediator shall meet the following qualifications:

(A) General qualifications and training. A Mediator employed by the Court or to whom the Court makes referrals for mediation of allocation of parental rights and responsibilities, the care of, or visitation with, minor children shall satisfy all of the following:

(1) Possess a bachelor's degree, or equivalent education or experience as is satisfactory to the Court, and at least two years of professional experience with families. "Professional experience with families" includes mediation, counseling, casework, legal representation in family law matters, or such other equivalent experience satisfactory to the Court.

(2) Complete at least twelve hours of basic mediation training or equivalent experience as a Mediator that is satisfactory to the Ohio Supreme Court Dispute Resolution Section in accordance with standards established by the Supreme Court Advisory Committee on Dispute Resolution.

(3) After completing the training required by division (C)(1)(b) of this rule, complete at least forty hours of specialized family or divorce mediation training which has been approved by the Ohio Supreme Court Dispute Resolution Section in accordance with standards established by the Supreme Court Advisory Committee on Dispute Resolution.

(B) Specific qualifications and training: Domestic Abuse. A Mediator employed by the division or to whom the Court makes referrals for mediation of any case shall complete at least fourteen hours of specialized training in domestic abuse and mediation through a training program approved by the Ohio Supreme Court Dispute Resolution Section in accordance with standards established by the Supreme Court Advisory Committee on Dispute Resolution. A Mediator who has not completed this specialized training may mediate these cases only if he/she co-mediates with a Mediator who had completed the specialized training.

37.15 Mediation Standards: Mediators providing services for the court shall comply with the Model Standards of Practice for Family and Divorce Mediation and the Special Policy Considerations for the State Regulation of Family Mediators and Court Affiliated Programs as set forth in Rule 16 of the Rules of Superintendence for the Courts of Ohio.

37.16 Fees and Costs: Mediators providing services for the court shall comply with the Court-approved Sliding Fee Scale.

SPECIAL PROCEEDINGS

RULE 38

DOMESTIC VIOLENCE

38.01 Pleading: An Ex-Parte Civil Protection Order may be initiated by filing a petition in accordance with the standard Civil Protection Order forms as promulgated by the Supreme Court of Ohio. Such forms and instructions are available from the Court. The pleading must set forth all information required by R.C. 3113.31(C). Any other case involving the petitioner or respondent pending in this or any other court shall be disclosed in the petition.

38.02 Procedure

(A) The petition must be first filed with the Clerk of Court. The Clerk of Court shall not collect a cost deposit for the filing of a petition.

(B) A time-stamped copy of the petition shall be presented to the Court for review at the ex-parte hearing. Upon hearing, the Court may grant any relief authorized by R.C. 3113.31(E). The Court may require respondent to post a bond to assure compliance with the orders issued. All orders issued at the ex-parte hearing shall remain in effect until a full hearing is held.

(C) If a Protection Order is granted at the ex-parte hearing, the Court shall order the case set for a full hearing. The full hearing shall be scheduled within seven (7) court days of the ex-parte hearing if the Protection Order issued includes an Order described in R.C. 3113.31(E)(1)(b) or (c) [granting possession of a residence]. The full hearing shall be scheduled within ten (10) court days after the ex-parte hearing in all other cases. Failure of service or continuance of the full hearing for any other reason shall not affect the validity of the ex-parte orders granted.

(D) After the ex-parte hearing, and after the petitioner has obtained a date and time for the full hearing from the Assignment Commissioner, the petitioner shall immediately present the Civil Protection Order to the Clerk of Court for filing and journalization.

(E) Petitioner shall cause a copy of the petition, all other documents filed with the petition, the ex-parte orders and a notice of the full hearing date to be served on respondent. Petitioner shall also cause a copy of the ex-parte orders to be served on any appropriate law enforcement agency that has jurisdiction to enforce the orders pursuant to R.C. 3113.31(F)(1).

(F) Service shall be ordered through the Mahoning County Sheriff's Office or any other law enforcement agency. The Court may authorize the petitioner to attempt service upon the respondent by a special process server upon petitioner's request, or when service by the sheriff's office is unsuccessful.

(G) At the full hearing, the issues of protection orders, spousal support, child support, child visitation, counseling and other requested relief shall be addressed. The Court may require respondent to post a bond to assure compliance with the orders issued. Standard Consent Agreement forms are available from the Court. If respondent fails to appear after proper service, the full hearing shall proceed by default. The Court shall direct that a copy of its orders be delivered to the respondent on the same day that the order is entered, if practicable.

38.03 Duration of Protective Orders: Any protection order or other court order issued at the full hearing on the petition may be effective for five (5) years from its date of filing unless an earlier termination is ordered. A Civil Protection Order may be renewed by the filing of a motion with the Court. The motion should be filed at least fourteen (14) days prior to the scheduled expiration of the Civil Protection Order.

38.04 Counseling: The Court may order parties to attend counseling and if ordered, the Court will set a review hearing to ensure compliance.

RULE 39

REGISTRATION OF A FOREIGN DECREE

39.01 Procedure for Filings Under Uniform Interstate Family Support Act (UIFSA)

- (A) The registration of a foreign order under UIFSA shall be accomplished by the filing of a petition requesting registration and modification, and alleging the grounds.
- (B) The petition must be accompanied by two (2) copies (one (1) certified) of the support order to be registered.
- (C) The petitioner must submit a sworn statement containing the same information required to register enforcement (R.C. 3115.39) and an affidavit stating the last known address of the obligor and the address of the obligee.
- (D) The petitioner shall submit all required financial information on the uniform UIFSA forms so that the support calculations can be completed by the tribunal.
- (E) The Court shall require the Clerk of Court to send, by certified mail, notice of the registration to the petitioner, respondent and any initiating tribunal.
- (F) The petitioner shall submit a completed Notice of Registration of Foreign Support Order available on the Court's Website.

39.02 Procedure for filings under Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)

- (A) Pursuant TO R.C. 3127.35, the registration of a foreign order shall be accomplished by the filing of:
 - (1) A letter or document requesting that the child custody determination be registered.
 - (2) Two copies, including one certified copy of the determination sought to be registered, and a statement under penalty of perjury that, to the best of the knowledge and belief of the person seeking registration, the order has not been modified.
 - (3) Except as otherwise provided in section 3127.23 of the revised code, the name and address of the person seeking registration and any parent who is designated the Residential Parent and legal custodian of the child or to have parenting time with respect to the child or any person acting as a parent who has been awarded custody or visitation in the child custody determination sought to be registered.
 - (4) An advance deposit or fee established by the Court.

(5) The petitioner shall submit a completed Notice of Registration of Foreign Custody Order available on the Court's Website.

39.03 Procedure for filings under Full Faith and Credit

(A) The enforcement of a foreign order shall be commenced by the filing of:

(1) A certified copy of the foreign judgment;

(2) An affidavit setting forth the names and addresses of the judgment creditor/obligee and judgment debtor/obligor;

(3) Instructions for the Clerk of Court to send notice of the filing, including the name and address of the judgment creditor/obligee, to the judgment debtor/obligor at the address given.

(B) A foreign judgment so filed has the same effect and is subject to the same procedures, defenses, and proceedings as a judgment of this Court.

RULE 40

ACTION ON A FOREIGN DECREE

40.01 Modification: In order to modify a provision concerning allocation of parental rights and responsibilities, or companionship and visitation of a foreign decree, this Court must be able to exercise jurisdiction in accordance with the conditions of R.C. 3127.17 et seq.

40.02 Filing and Service: Prior to filing a Complaint or Motion, the moving party shall first have filed and served an Affidavit Application for registration of an Out-of-State Custody or Visitation Order pursuant to the Uniform Child Custody Jurisdiction and Enforcement Act. The form is set forth on the Court's Website. The party shall file a Complaint or Motion at the time of registration of the decree and serve the opposing party pursuant to Civ. R. 4 through Civ. R. 4.6. A certified copy of the foreign decree shall be attached to the petition. The Parenting Declaration is set forth in the Appendix of these Rules.

40.03 Compliance with Local Rules: The party shall comply with Local Rule 8 and Local Rule 9.

RULE 41

CONCURRENT JURISDICTION

41.01 Duty of Disclosure: It shall be the obligation of any party initiating any action in this Court to inform the Court of the status of any other action requested from another court, and the result of said request, or any existing matters of any other court.

RULE 42

CERTIFICATION TO JUVENILE COURT

42.01 **Protocol:** The following protocol shall be followed in any case previously certified to the Juvenile Court of Mahoning County, Ohio by this Court relative to minor children.

(A) If no action was taken in Juvenile Court, the moving party shall first obtain an Order from the Juvenile Court declining jurisdiction.

(B) If the matter was docketed in the Juvenile Court, the moving party shall file a motion in the Juvenile Court requesting that the matter be assigned for hearing in the Domestic Relations Court. An Order transferring the case shall be obtained from the Juvenile Court.

COURT ADMINISTRATION

RULE 43

CONFLICTS OF INTEREST

43.01 **Gifts/Favors:** The Court, including the Judge, Magistrates, and employees shall not accept any gift, favor, or item from any attorney or party.

RULE 44

COURT REPORTERS AND RECORDINGS

44.01 **Cases Heard by the Judge:** In matters heard by the Judge, the court reporter may be provided by the Court and taxed as costs.

44.02 **Cases heard by the Magistrate:** All matters heard by a Magistrate will be recorded digitally, unless otherwise agreed by the parties.

44.03 **Preservation of Recordings:** All digital recordings shall be preserved by the Court for not less than thirty (30) days after the Decision or Order is issued.

44.04 **Transcripts:** Upon request and payment of a deposit to cover the cost of transcription of a hearing held before the Judge, an official court reporter will prepare a transcript of the proceeding. A compact disc of a Magistrate's hearing or a hearing before a Visiting Judge will be made available upon request for transcription by a court reporter.

44.05 **Official Record:** The transcript, not the compact disc, shall constitute the official record of the proceeding.

RULE 45

COURT SECURITY

45.01 **Searches:** In order to maintain appropriate security for the public and court personnel, the Court may require that all persons entering the courthouse and the Domestic Relations Court submit to a search of their persons and property.

45.02 **Weapons:** No weapons or other instruments which may cause bodily harm shall be permitted in the Domestic Relations Court.

45.03 **Supervision:** It shall be the duty of the Mahoning County Sheriff to supervise and maintain all security in the Domestic Relations Court.

45.04 **Court Security Plan.** The Court will adopt a Security Plan as required by Rule 9 of the Rules of Superintendence of the Supreme Court.

RULE 46

PHOTOGRAPHING, RECORDING AND BROADCASTING OF COURT PROCEEDINGS

46.01 **Procedures:** In compliance with Sup. R. 12, the Court shall permit the broadcasting, televising, recording or photographing of public court proceedings.

(A) Request for permission to broadcast, televise, record, or photograph in a Courtroom shall be made in writing to the Domestic Relations Court.

(B) The Court shall immediately inform the attorneys for all the parties in the case of a media request.

(C) A journal entry shall be issued setting forth the conditions thereto.